

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

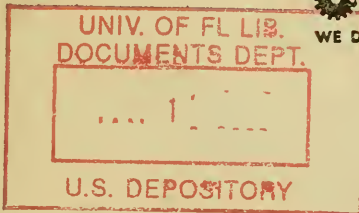
FOR THE

**RAILWAY SAFETY APPLIANCE
INDUSTRY**

AS APPROVED ON JANUARY 12, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

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Approved Code No. 198

CODE OF FAIR COMPETITION

FOR THE

RAILWAY SAFETY APPLIANCE INDUSTRY

As Approved on January 12, 1934

**Order Approving Code of Fair Competition for the Railway
Safety Appliance Industry**

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Railway Safety Appliance Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise, do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

MALCOLM MUIR,
Division Administrator.

WASHINGTON, D.C.
January 12, 1934.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition proposed for the Railway Safety Appliance Industry and on the hearing conducted thereon in Washington, D.C., on October 11, 1933, in accordance with the provisions of the National Industrial Recovery Act.

RÉSUMÉ OF CODE AS TO WAGES AND HOURS

The Code provides that 8 hours shall constitute the normal number of working hours per day, and 40 hours the normal number of working hours per week, and that employees shall not be permitted to work in excess of an average of 40 hours per week in any 4 months' period, the first of which periods shall begin on the effective date of the Code. These provisions are applicable to all employees except traveling salesmen, outside service men, watchmen, who may be permitted to work 56 hours per week, and persons employed in managerial, executive, or technical work receiving not less than \$35.00 per week.

The minimum rates of pay provided for production labor are 40 cents per hour for men and 35 cents per hour for women, and where women replace men such women shall receive the same rates of pay as received by the men so replaced. Time and one half shall be paid production employees for each hour worked in excess of 8 hours per day or 40 hours per week.

All other employees are to be paid not less than \$15.00 per week, except that a limited number of learners and office boys or girls may be paid not less than 80 percent of the above minima.

Equitable adjustments are to be made of all wage rates above said minima.

Child labor is prohibited and no person under 18 years of age shall be employed in hazardous occupations.

GENERAL STATEMENT

The Railway Safety Appliance Manufacturing Industry is a capital goods industry. It comprises the design, development, manufacture, sale, and installation of power brake, signal and train-control systems, and parts. Its products are designed for the safeguarding of movements of cars, locomotives, or trains. Its single customer, therefore, is the Railways, which customarily place orders on their own initiative as the need for equipment arises, rather than upon solicitation by members of the Industry.

The investment in the Industry is approximately \$113,000,000, and the number of wage earners in normal times about 11,000 persons, with an estimated annual pay roll of \$20,000,000.

In 1928, which is considered a normal year, operation was at the rate of approximately 54 percent of capacity, with a value of production of about \$45,000,000. Operation in 1929 was about 68 percent of capacity; in 1930—57 percent; in 1931—30 percent; and in 1932—20 percent. The estimate for 1933 is about 11 percent of capacity.

Orders for repair and maintenance of parts which, in a normal year, amount to approximately 15 percent of the total volume of production, in 1933 have represented about 95 percent of the volume of production. New installation business is anticipated in 1934 which will add measurably both to the number of employees and the pay rolls of the Industry.

I believe that the Code is fair to Industry, to Labor, and to the Public, and is in accordance with the intent and purpose of the National Industrial Recovery Act.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that—

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry; and that said group imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies nor monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code. For these reasons, therefore, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

WASHINGTON, D.C.,
January 12, 1934.

CODE OF FAIR COMPETITION
FOR THE
RAILWAY SAFETY APPLIANCE INDUSTRY

ARTICLE I

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Railway Safety Appliance Industry and upon approval by the President shall be the standards of fair competition for such Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

Wherever used in the Code or in any schedule appertaining thereto, the terms hereinafter in this Article defined shall, unless the context shall otherwise clearly indicate, have the respective meanings hereinafter in this Article set forth. The definition of any such term in the singular shall apply to the use of such term in the plural and vice versa.

The terms "President", "Act", and "Administrator", as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

The term "the Industry" means and includes the business of the design, development, manufacture, sale, and installation of power brake, signal, and train control systems, and apparatus, appliances and parts which have for their object the safeguarding of movement of cars, locomotives, or trains on railways operated by steam electricity, or other motive power.

The term "member of the Industry" means and includes but without limitation any individual, firm, association, corporation, trustee, receiver, or other form of enterprise, engaged in the Industry.

The term "the Code" means and includes this Code and all schedules annexed hereto as originally approved by the President and all amendments hereof and thereof made as hereinafter provided.

Except as otherwise required by any provision of the Code, the term "member of the Industry who assents to the Code" means any member of the Industry who assents to the Code as hereinafter provided.

The term "Code Authority" means the Code Authority as from time to time constituted whose members shall be chosen as hereinafter provided.

The term "employee" as used herein includes any and all persons engaged in the Industry, except a member of the Industry, however compensated.

The term "employer" as used herein means anyone by whom any such employee is compensated or employed.

The term "expiration date" as used herein means June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section 1 of Title I of the National Industrial Recovery Act has ended.

ARTICLE III—HOURS

SECTION 1. Except as herein otherwise provided eight (8) hours of labor shall constitute the normal number of working hours per day and forty (40) hours of labor the normal number of working hours per week for all employees, and no employee shall be permitted to work in excess of an average of forty (40) hours per week in any four (4) months' period, the first of which periods shall begin on the effective date of the Code.

SEC. 2. No employer shall knowingly permit any employee to work for any time which when totaled with that already performed with another employer or employers in the Industry exceeds the maximum permitted herein.

SEC. 3. The provisions of this Article shall not apply to travelling salesmen or to outside service men, persons employed in managerial, executive, or technical work, or to members of their respective staffs whose rate of pay is not less than thirty-five (35) dollars per week; nor shall they apply to watchmen, who may be permitted to work fifty-six (56) hours per week.

ARTICLE IV—WAGES

SECTION 1. The minimum wage that shall be paid by any employer to any employee engaged in the processing or installation of the products of the Industry or in labor operations directly incident thereto, shall be not less than forty (40) cents per hour for male and thirty-five (35) cents per hour for female employees; provided, that if males be replaced by females, for the same operations such females shall receive the same rate of pay as the males received, and, provided that learners may be paid not less than eighty (80) percent of the above-stated minimum rates and that the number of learners receiving less than such minimum rates shall not exceed five (5) percent of the total number of such employees. Employees engaged in the processing or installation of the products of the Industry and in labor operations directly incident thereto shall be paid not less than one and one half ($1\frac{1}{2}$) times their regular hourly rates of pay for all excess hours worked over eight (8) hours per day or forty (40) hours per week.

SEC. 2. The minimum wage that shall be paid by any employer to all other employees, except commission salespeople, shall be at the rate of fifteen (15) dollars per week; provided, however, that office boys and girls and student learners may be paid not less than eighty (80) percent of such minimum wage, but the number of such office boys or girls and student learners paid at a rate of less than fifteen (15) dollars per week shall not exceed five (5) percent

of the total number of employees covered by the provisions of this paragraph.

SEC. 3. The minimum rates of pay above established shall apply irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

SEC. 4. Equitable adjustment in all pay schedules of factory employees above the minima shall be made not later than fifteen (15) days from the effective date of the Code by any employers who have not theretofore made such adjustments, and the first reports of wages, required to be filed under the Code, shall contain all wage increases made since June 15th, 1933.

SEC. 5. A person whose earning capacity is limited because of age or physical or mental handicap may be employed at a wage below the minima established by the Code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such employees so employed by such employer.

SEC. 6. Employers shall not reclassify employees contrary to fact with reference to work performed, with the intention of defeating the purposes of the Act.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. Employers shall not employ anyone under the age of sixteen (16) years. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health.

SEC. 2. As required by Sub-Section (a) of Section 7 of the National Industrial Recovery Act:

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 3. All employers shall post complete copies of the Code in conspicuous places accessible to all employees.

ARTICLE VI—ADMINISTRATION OF THE CODE

SECTION 1. A Code Authority is hereby constituted which shall consist of seven members elected by the members of the Industry who assent to the Code. The method of selection and voting shall be as determined by the bylaws of the Code Authority of the Industry

subject to the approval of the Administrator. In addition to membership as above provided, the Administrator may appoint a member to the Code Authority, or not more than three members, such member or members to sit without vote and to serve for terms as fixed by the Administrator. Any such representative shall serve without expense to the Industry unless by agreement approved by the Administrator and, together with the Administrator, shall be given notice of and may sit at all meetings of the Code Authority.

SEC. 2. Each trade or industrial association, directly or indirectly, participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as may be necessary to effectuate the purposes of the Act.

SEC. 3. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper, and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority, or any subcode Authority.

SEC. 4. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to the Code as required by the bylaws and complying with the requirements of the Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority on the basis of proportionate pay rolls as required by the bylaws.

SEC. 5. Any member of the Industry who desires to become an assenting member to the Code, may do so by signing and delivering to the Secretary a letter substantially in the form set forth in Schedule A annexed hereto.

SEC. 6. Nothing contained in the Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member, officer, agent, or employee of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under the Code, except for his own wilful misfeasance or nonfeasance.

SEC. 7. The Code Authority shall have the following further powers and duties:

(a) To use its best efforts to insure the execution of the provisions of the Code and provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the Industry such statistical information and reports as are required for the administration of the

Code, which information and reports shall be submitted by the Code Authority to such administrative and/or government agencies as the Administrator may designate; provided that nothing in the Code shall relieve any member of the Industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other member of the Industry or to any other party except to such governmental agencies as may be directed by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under the Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To secure from members of the Industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(f) To initiate, consider, and make recommendations for the modification or amendment of the Code.

SEC. 8. In addition to the information required to be submitted to the Code Authority as set forth in this Article, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

SEC. 9. Any action taken by the Code Authority relative to the Administration of this Code, except where specifically made subject to the approval of the Administrator, may, in the discretion of the Code Authority, be submitted to the Administrator for approval, and shall in any case be subject to the disapproval of the Administrator.

ARTICLE VII—MODIFICATION AND AMENDMENTS

SECTION 1. The Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of the Code or any conditions imposed by him upon his approval thereof.

SEC. 2. The Code, except as to the provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE VIII—GENERAL PROVISIONS

SECTION 1. If any employer in the Industry is also an employer in any other industry, the provisions of the Code shall apply to and affect only that part of the business and products of such employer which are included in the Industry.

SEC. 2. No provision of the Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE IX

The term "effective date of the Code" means 12:01 a.m. on the third Monday after the Code shall have been approved by the President pursuant to the National Industrial Recovery Act.

Approved Code No. 198.
Registry No. 1413-01.

SCHEDULE A
FORM OF LETTER OF ASSENT TO THE CODE

_____, 193—.

To the Secretary of the Code Authority of the Code of Fair Competition for the Railway Safety Appliance Industry.

DEAR SIR: The undersigned, desiring to become a member who assents to the Code of Fair Competition for the Railway Safety Appliance Industry, a copy of which is annexed hereto, marked Annex A, hereby assents to all of the provisions of said Code (hereinafter referred to as the Code), and effective on the third Monday after the date on which the Code shall have been approved by the President of the United States of America as therein provided, or as of the date on which this letter shall have been delivered, if delivery thereof shall have been made subsequent to the third Monday after the Code shall have been approved by said President as aforesaid, by the signing and delivery of this letter, becomes a member who assents to the Code and agrees to the By-Laws of the Code Authority, a copy of which may be obtained from the Secretary of the Code Authority.

For all purposes of the Code, the address of the undersigned, until it shall file with the Secretary of the Code Authority written notice of a change of such address, shall be as set forth at the foot of this letter.

Very truly yours,

_____,
Address: _____.



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